Legislative Business—Non-official Bills

The Cochin Child Marriage Restraint Bill *

Mr. C. V. Iyyu *(Kunnamkulam):* Mr. President Sir, under Standing Order 26, I beg to move that Mrs. Thankamma N. Menon's Child Marriage Restraint Bill be adjourned now and taken up for consideration by this House only after the consideration of my Tenancy Act (Amendment) Bill is over, because of the importance of the latter Bill. It is stated in the above Standing Order that the President can allow this motion after taking the sense of the House in the matter.

Mr. President: I don't allow it.

The House will now resume discussion on the Cochin Child Marriage Restraint Bill. Discussion was going on about clause 1, with regard to amendments of Mr. T. S. Ramachandra Ayyar and Mr. A. V. Moothedan.

Clause 1.—(cont.)

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I wish to say one word more. On the last day when this Bill was considered by this House, I moved an amendment to the following effect:

> *"Add the following proviso at the end of sub-clause (2) of clause 1 of the Bill.—"Provided that the Government may by notification in the Cochin Government Gazette exempt from the operation of this Act any community or members of a community residing in a Taluk. Such notification will be in force for a period of three years."*

If this amendment is added to clause 1 (*ii*), it will read as follows.—

> *1 (ii) It extends to the whole of Cochin State, and applies also to all subjects of His Highness the Maharaja wherever they may be:*
>
> *Provided that the Government may by notification in the Cochin Government Gazette.....for a period of three years.*

Now, on general principles, I entirely agree with the Hon'ble Lady Member that this custom of child marriage should be stopped; but only in the procedure I differ with her. The Lady Member says that the Bill should become law and should be made applicable to these communities at once. What I suggest is that some time may be given to these communities to adapt themselves to this.

*Appendix I

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change. I never expected that the Hon'ble Lady Member will oppose such a reasonable proposal *(Laughter)*. The House really understands that this custom was existing in the community from very ancient times and most of the Brahmins are opposing this Bill. That being the case, especially when their population consists only of about 50—60 thousand in Cochin State—a minority community—the House has a great responsibility not to impose any measure, which they strongly oppose. It may be that this measure is intended for the benefit of the Brahmins. But, at the same time, we should consider the opposition put up by them. Therefore, what I submit is, what is the harm if these conservative Brahmins are given some time to absorb these new ideas? Nothing will be lost by this. The future is infinite and by taking three years out of it, nothing will be lost. For a number of years this has been going on and this evil has been existing. I do not think by giving them this three years' time, the evil is going to take a still more bad turn. Therefore, there will be no harm done if my amendment is accepted.

The Hon'ble Lady Member wanted that this measure should become law at once. Even when a suggestion to refer the matter to a Select Committee came, she opposed that. She would not allow this to be circulated for eliciting public opinion also. I cannot understand why the Hon'ble Lady Member wants to hurry with this Bill. I say, a social legislation should be slow because custom dies slow. I would therefore request the House that we should bear these points in mind in considering this piece of social legislation.

Another point which I wish to bring to the notice of the House is this. This Bill is intended to affect mainly Tamil Brahmins. If Mr. Ramachandra Ayyar's amendment is accepted and becomes part of the law, then another Bill will be necessary, if this law is to be made applicable to the Tamil Brahmins. We know how much difficulties these non-officials feel in getting a Bill passed through this Council. Therefore, in my amendment, I have given some time—three years—to these people, so that they may adapt themselves to the changed conditions in the meantime. I have given power to the Government to exempt from the operation from this measure any community or any member thereof residing in a particular place. After all, this is a simple process to exempt these communities. With these observations, I request, the House may be pleased to consider this amendment.

Mr. T. V. Subramania Ayyar *(Nemmara)*: Sir, with the Hon'ble President's leave, under Standing Order 60, I beg to present this petition to the House.

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Sir, this is signed by 1141 Tamil Brahmins inhabiting the constituencies of Ernakulam, Trichur, Mattancheri and Chittur. Out of these 1141, 640 are males, and 501 females. The petition is addressed to the members of this House and the prayer is:

"അതിനാൽ ബഹുമാനപ്പെട്ട നിയമസഭാ മെമ്പറന്മാർ ഈ കാര്യത്തിൽ നിഷ്പക്ഷമായി ഗുണദോഷവിവേചനം ചെയ്ത ബില്ലിനെ നിഷേധിപ്പാനും ഏതു നിലയിലും തമിഴ്ബ്രാഹ്മണരെ സംബന്ധിച്ചിടത്തോളമെങ്കിലും ബില്ലിനെ നിയമമാക്കാതിരിപ്പാനും സവിനയം അപേക്ഷിച്ചുകൊള്ളുന്നു."

I request the President to allow the petition to be read in the Council.

Mr. President: Yes. The Secretary will read it.

കൌൺസിൽ സെക്രട്ടറി: "വർണ്ണാശ്രമപരിപാലന തൽപ്പരനായ ധർമ്മികചക്രവർത്തി തിരുമനസ്സിലെ രക്ഷയിൽ ഇരിക്കുന്ന കൊച്ചിജ്ജീമ എറണാകുളം, തൃശ്ശിവപേരൂർ, മട്ടാഞ്ചേരി, ചിറ്റൂർ നിയോജകമണ്ഡലത്തിലെ തമിഴ് ബ്രാഹ്മണസമുദായത്തിലെ താഴെ പേരെഴുതി ഒപ്പിട്ടുന്ന സ്ത്രീപുരുഷന്മാർ നിയമനിർമ്മാണസഭയിൽ സമർപ്പിക്കുന്നതു്.

കൊച്ചി നിയമസഭയിൽ മിസ്സിസ് തങ്കമ്മ എൻ. മേനോൻ അവതരിപ്പിച്ചിട്ടുള്ള "കൊച്ചി ശൈശവ വിവാഹനിരോധനബിൽ" തീരെ അനാവശ്യവും അനാശാസ്യവും ധർമ്മശാസ്ത്രങ്ങൾക്കും ആചാരങ്ങൾക്കും വിരുദ്ധവും സാമുദായികശ്രേയസ്സിനും പരിഹാസ്യമാകുന്നു. തൻമൂലം ഈ രാജ്യത്തിലെ തമിഴ് ബ്രാഹ്മണ സ്ത്രീപുരുഷന്മാർ ഈ ബില്ലിനെ ശക്തിയായി പ്രതിഷേധിക്കുന്നു.

ശാസ്ത്രനിഷേധങ്ങളിൽ സാധാരണമെന്നും നിർബ്ബന്ധമെന്നും രണ്ടു വിഭാഗങ്ങളുള്ളതും, സാധാരണ വിധിനിഷേധങ്ങൾക്കു കാലാതി കൊണ്ടു ലോപം വരുന്നുണ്ടെങ്കിൽ തന്നെയും നിർബ്ബന്ധ നിഷേധങ്ങളെ അവഗണിക്കുവാൻ പാടില്ലാത്തതും, ആയതിനെ അനുവദിക്കുന്നതു അധർമ്മവും ആകുന്നു. ഈ തത്വത്തെ മനസ്സിലാക്കാതെയാണു് ഈ ബിൽ കൊണ്ടുവരാൻ ഇടയായിട്ടുള്ളതു്.

ഈ ബിൽ കേവലം ഒരു സമുദായത്തെ ബാധിക്കുന്ന വിഷയമായതിനാൽ ഈ കാര്യത്തിൽ സമുദായാഭിപ്രായം എതിരായി കണ്ടിട്ടും അതിനെ ഗണ്യമാക്കാതെ നിർബ്ബന്ധമായി ബ്രാഹ്മണർക്കു ഈ ബിൽ ബാധകമാക്കുന്നതു് നീതിന്യായത്തിനും സമുദായ മൈത്രിക്കും യോജിച്ചതല്ല.

അതിനാൽ ബഹുമാനപ്പെട്ട നിയമസഭാ മെമ്പറന്മാർ ഈ കാര്യത്തിൽ നിഷ്പക്ഷമായി ഗുണദോഷവിവേചനം ചെയ്ത ബില്ലിനെ നിഷേധിപ്പാനും ഏതു നിലയിലും തമിഴ് ബ്രാഹ്മണരെ സംബന്ധിച്ചിടത്തോളമെങ്കിലും ബില്ലിനെ നിയമമാക്കാതെയിരിപ്പാനും സവിനയം അപേക്ഷിച്ചുകൊള്ളുന്നു."

Mr. T. S. Ramachandra Ayyar *(Chittur-Tattamangalam):* Mr. President Sir, under Standing Order 26, I rise to move that the business of this House may be adjourned for the following reasons.—

Mr. President: You must state briefly your reasons for this motion.

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*Mr. T. S. Ramachandra Ayyar *(Chittur-Tattamangalam):* Sir, this custom which is alleged to be pernicious has been existing for the past thousands of years. From time immemorial our community has been following this custom; but still we persist as a community and the general impression has been that we occupy the topmost rung of the ladder. The present attempt seems to be to throw us off the pedestal. That is one of the reasons.

Another important reason which I wish to bring to the notice of this House is this. This House is called a democratic body. The two petitions—one which I had the honour of putting in during the Meenam session of this Council and the other now presented by Mr. T. V. Subramania Ayyar—bear ample testimony to the fact that a substantial portion of the members of my community are opposed to the passing of this measure into law. And so, the proper thing for the Council would be to put this issue to a referandum and if in that referendum, the verdict of the members of my community goes against this Bill, then, it will be in the fitness of things for the Hon'ble Lady Member not to proceed with this measure, or at least to exempt my community from its operation.

Mr. President: You are going into the merits of the Bill. That is no argument at all in support of adjourning the business.

Mr. T. S. Ramachandra Ayyar *(Chittur-Tattamangalam):* Until the referendum is completed the consideration of the Bill should be held up.

Motion put and lost

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: സർ, ഈ ബില്ലിന്റെ സാമാന്യനിരൂപണത്തിൽതന്നെ തമിഴ് ബ്രാഹ്മണ സമുദായത്തെ ഈ ബില്ലിന്റെ പരിധിയിൽ നിന്നൊഴിവാക്കി നിറുത്തുകയൊ, അല്ലാത്തപക്ഷം, ബഹുമാനപ്പെട്ട ചാലക്കുടി മെമ്പർ കൊണ്ടുവന്നിട്ടുള്ള ഭേദഗതിപോലെ ഒരു നിശ്ചിതകാലത്തിനുള്ളിൽ ആവശ്യപ്പെട്ടവരെ അതിന്റെ പരിധിയിൽ നിന്നൊഴിവാക്കിനിറുത്തുകയൊ ചെയ്യേണ്ടതാണെന്നു ഞാൻ പറഞ്ഞിട്ടുള്ളതാണ്. കൊച്ചിയിലെന്നല്ല ഭാരതമൊട്ടാകെയുള്ള ജനങ്ങളിൽ സാമ്പത്തികമായും രാഷ്ട്രീയമായും ബുദ്ധിപരമായും, എല്ലാംകൊണ്ടും നോക്കിയാൽ ഏറ്റവും മുന്നണിയിൽനില്ക്കുന്ന ഒരു സമുദായമാണ് തമിഴ് ബ്രാഹ്മണസമുദായം. തമിഴ് ബ്രാഹ്മണസമുദായത്തിനു് ശൈശവ വിവാഹനിരോധന ബിൽ ഇല്ലാത്തതുകൊണ്ടു് അവരുടെ ആരോഗ്യം നശിക്കുന്നു, ബുദ്ധികുറഞ്ഞുവരുന്നു, എന്നീ രണ്ടു പ്രധാന കാരണങ്ങൾ ഈ ബിൽ അവതരിപ്പിച്ച സമയത്തും അതിനുശേഷം ഒരിക്കൽ മിവാൻപ്രസിഡെണ്ടവർകളും പറഞ്ഞതായി ഞാൻ ഓർമ്മിക്കുന്നു. അങ്ങിനെയാണെങ്കിൽ ഈ ബിൽ ആവശ്യമില്ലാത്തതാണ്. അവരെ കൂടെക്കൂടി ബുദ്ധിയുള്ളവരാക്കി തീർക്കാൻ പാടില്ല. എന്തെന്നാൽ ഇപ്പോൾതന്നെ ശൈ

*Speech not corrected by the hon'ble member.

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ശവ വിവാഹ നിരോധനത്തിന്റെ ഇണങ്ങാം കൂടാതെതന്നെ അവക്ക് എല്ലാ സമുദായങ്ങളുടേയും മുന്നണിയിലെത്താൻ സാധിച്ചിട്ടുണ്ടെങ്കിൽ ഇനി ശൈശവ വിവാഹത്തിന്റെ ദോഷങ്ങൾകൂടി ഇല്ലാതായാൽ അവർ മറ്റെല്ലാ സമുദായങ്ങളേയും പിന്നിൽ തള്ളിയിട്ടുന്നതായിരിക്കും. ആ ഒരു കാഴ്ച മോത്തിട്ടെങ്കിലും എനിക്ക് ഈ ബില്ലിനെ എതിർക്കാതെ നിവൃത്തിയില്ല.

ഈ നിയമസഭ തുടങ്ങിയകാലം മുതൽ തമിഴ് ബ്രാഹ്മണ സമുദായത്തിൽ നിന്ന് രണ്ടു മൂന്നു മെമ്പർമാരില്ലാതെ ഒരു നിയമസഭയും നടന്നിട്ടില്ല. ഈ ഴവസമുദായത്തിനു ചില പരിഷ്കാരങ്ങളെല്ലാം വേണമെന്നു തോന്നി അവർ ഒരു ബിൽ കൊണ്ടുവന്നു പാസ്സാക്കി. അതുപോലെ ക്രസ്ത്യാനികളും, നായന്മാരും, നമ്പൂതിരിമാരും മുസ്ലീം സമുദായവും അവരവരുടെ സമുദായത്തിനാവശ്യമുള്ള ഓരോ ബിൽ കൊണ്ടുവന്നിട്ടുണ്ട്. അങ്ങിനെയിരിക്കെ ബുദ്ധിയിൽ മുന്നണിയിൽ നില്ക്കുന്ന ബ്രാഹ്മണസമുദായത്തിനു ഒരു പരിഷ്കാരം വേണമെന്നുണ്ടെങ്കിൽ അവർതന്നെ ഒരു ബിൽ ഇവിടെ കൊണ്ടുവരുമായിരുന്നു.

മിസ്സിസ് തങ്കമ്മ എൻ. മേനോൻ: ബ്രാഹ്മണസ്ത്രീകൾ ആരെങ്കിലും ഇവിടെ മെമ്പറായിരുന്നിട്ടുണ്ടോ? ഉണ്ടായിരുന്നെങ്കിൽ മുമ്പേതന്നെ കൊണ്ടുവരുമായിരുന്നു.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: അപ്പോൾ തമിഴ് ബ്രാഹ്മണരെ മാത്രം ഉദ്ദേശിച്ചാണ് എറണാകുളം ലേഡി മെമ്പർ ഈ ബിൽ കൊണ്ടുവന്നിട്ടുള്ളതെന്നു തോന്നുന്നു.

മിസ്സിസ്സ് തങ്കമ്മ എൻ. മേനോൻ: ഞാൻ അങ്ങിനെ ഉദ്ദേശിച്ചിട്ടില്ല. ഞാൻ എന്റെ ജാതിയോടു പ്രത്യേകം സ്നേഹം കാണിച്ചിട്ടില്ല. അതിനു വേണ്ടി വാദിക്കുന്നില്ല. ഞാൻ സ്ത്രീകളെല്ലാം ഒന്നാണെന്നും അവരെല്ലാം ഒരു സമുദായത്തിൽപെട്ടവരായിട്ടാണ് കണക്കാക്കീട്ടുള്ളത്. അങ്ങിനെ സ്ത്രീസമുദായത്തിന്റെ പൊതുവെയുള്ള ഇണത്തെ മുൻനിറുത്തിയാണ് ഈ ബിൽ കൊണ്ടുവന്നിട്ടുള്ളത്.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: എന്നാൽ മറ്റു യാതൊരു സമുദായത്തിനും ഇതിൽ ആക്ഷേപങ്ങളൊന്നുമില്ല. തമിഴ് ബ്രാഹ്മണക്കു മാത്രമെയുള്ളൂ. തമിഴ് ബ്രാഹ്മണസ്ത്രീകൾ ഇവിടെ മെമ്പരായി വരാത്തതുകൊണ്ടാണ് ഒരു നായർ സ്ത്രീ മെമ്പർ ഈ ബിൽ കൊണ്ടുവന്നതെങ്കിൽ തീപ്പുയായും ആ സമുദായത്തെ നമ്മൾ ആക്ഷേപിക്കയല്ലേ ചെയ്യുന്നതെന്നു ലോചിക്കണം. മറ്റുള്ള സമുദായങ്ങൾ ബിൽ കൊണ്ടുവന്നതു് ആ സമുദായങ്ങളിലെ സ്ത്രീകൾ മെമ്പർമാരായിരുന്നതുകൊണ്ടായിരിക്കാം. നായർ ബിൽ കൊണ്ടുവന്നപ്പോൾ ചില വീട്ടുകാരെ അതിൽനിന്നൊഴിവാക്കിയിരുന്നു. തിയ്യ ബില്ലിന്റെ പരിധിയിൽനിന്നു ചിറ്റൂർ ഇഴവരെ ഒഴിവാക്കീട്ടുണ്ട്. ഈ ബിൽ ജാതിമതവ്യത്യാസങ്ങളെ കണക്കാക്കാതെയുള്ള ഒന്നാകയാൽ അതിൽനിന്നു ചില വീട്ടുകാരേയൊ ചില സമുദായങ്ങളേയൊ ഒഴിവാക്കിക്കിട്ടണമെന്നു പറയുന്നുവെങ്കിൽ അതിൽ തെറ്റില്ല. തമിഴ് ബ്രാഹ്മണക്കു ആവശ്യമില്ലെന്നു പറയുന്ന ഈ ബിൽ അവക്കിടയിൽ ഭൂരിപക്ഷമില്ലെന്നുള്ളതുകൊണ്ടു് നമ്മളുടെ ഭൂരിപക്ഷത്തിന്റെ ശക്തികൊണ്ടു അവരുടെ തലയിൽവെച്ചു കെട്ടാൻ ഒരുങ്ങുന്നതു് ഒരിക്കലും ഭൂഷണമല്ല ക്ഷന്തവ്യവും അല്ല. ആവശ്യപ്പെട്ടവരെ ഒഴിവാക്കേണ്ടതുമാണ്. പിന്നീട് അത്യാവശ്യമില്ലെന്നു തോന്നുന്നപക്ഷം നായർ

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റഗുലേഷൻ പാസ്സായതിനുശേഷം ഭേദഗതികൾ കൊണ്ടുവന്ന് ആ റസ്ട്രിക്ഷൻ എടുത്തുകളഞ്ഞതുപോലെ ഇതിലും ചെയ്യാവുന്നതുമാണ്. അതുകൊണ്ട് ഈ ബില്ലിൽ അങ്ങിനെ ഒരു വ്യവസ്ഥ ആവശ്യമാണ്. അവക്കിഷ്ടമില്ലാത്തതുകൊണ്ടാണ് അവർ ഈ ഭേദഗതികൾ കൊണ്ടുവന്നിട്ടുള്ളതു്. അതനുവദിച്ചുകൊടുക്കേണ്ട ചുമതല ഈ നിയമസഭയ്ക്കുണ്ട്. നമ്മൾ ഭൂരിപക്ഷമായതുകൊണ്ട് അവരെ അടിച്ചമർത്തുകയൊ, ഈ ഭീമമായ ഭാരം അവരുടെ തലയിൽ വലിച്ചുവെയ്ക്കാൻ വിചാരിക്കുകയൊ ചെയ്യുന്നതു് ശരിയല്ല. തൻമൂലം ഒരു ന്യൂനപക്ഷം സങ്കടം അനുഭവിക്കേണ്ടിവരിക എന്നുള്ളതു് ധാർമ്മിക ചക്രവർത്തിയായ മഹാരാജാവു തിരുമനസ്സിലെ യശസ്സിനു ഭൂഷണമായിരിക്കുന്നതല്ല.

Dr. A. R. Menon *(Minister for Rural Developmet):* I do not know whether it is proper to bring in the name of His Highness in these discussions. It will prejudice the discussion to a very great extent.

Mr. President: Don't bring in the name of His Highness in these discussions any more.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഈ നിയമസഭ ഉത്തരവാദിത്വ ഭരണമില്ലാതെ പ്രവൃത്തിക്കുന്ന നിയമനിർമ്മാണസഭയല്ലെന്നു എല്ലാപേർക്കും അറിയാം. എല്ലാ ജനവിഭാഗങ്ങളുടേയും അവകാശങ്ങളേയും ആവശ്യങ്ങളേയും പരിഗണിക്കുന്ന ഒരു നിയമനിർമ്മാണസഭയാണിതു്. വളരെകാലമായി പ്രത്യേകിച്ചും അതു ശരിക്കു പാലിക്കുന്നുണ്ടെന്നുള്ളതിനു് അനവധി ദൃഷ്ടാന്തങ്ങളുണ്ടു്. ആ നിലതന്നെ ഈ സഭ ഈ ബില്ലിന്റെ കാര്യത്തിലും അംഗീകരിക്കുമെന്നു് എനിക്കു വിശ്വാസമുണ്ടു്. അങ്ങിനെ പ്രവൃത്തിക്കുമെന്നു ധൈര്യവുമുണ്ടു്. എങ്കിലും എല്ലാപേരുടേയും ഉള്ളിൽ ശൈശവ വിവാഹം നിരോധിക്കേണ്ടതു് ആവശ്യമായ ഒരു പരിഷ്കാരമല്ലേ എന്നുള്ള ഒരു തെറ്റിദ്ധാരണ ഉള്ളതാണു് കുഴപ്പം.

മിസ്സിസ് തങ്കമ്മ എൻ. മേനോൻ: തെറ്റിദ്ധാരണയല്ല. ശരിയായ ധാരണയാണു്.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ബ്രാഹ്മണരുടെ ഇടയിൽ ശൈശവ വിവാഹമുണ്ടെങ്കിലും പ്രായമാകാതെ 'അല്ലെങ്കിൽ പഷ്ണിണികളാകാതെ' അഥവാ ജാതമതികളാകാതെ അവർ ദാമ്പത്യ ജീവിതത്തിൽ പ്രവേശിക്കുന്നില്ല. വിവാഹബന്ധത്തിൽ ഏർപ്പെടുക മാത്രമെ അവർ ചെയ്യുന്നുള്ളു. അതിനു സമ്മതിക്കില്ലെന്നു പറഞ്ഞാൽ അതു നിർത്തലാക്കാവുന്നതല്ല. ഇതിനു വിവാഹിതകളായ സ്ത്രീകളുടെ ഒരു കാനേഷുമാരി കണക്കെടുക്കുന്നപക്ഷം ശൈശവ വിവാഹം നടത്തണമെന്നു നിർബ്ബന്ധമുള്ള സമുദായത്തിൽ അവരുടെ എണ്ണം വളരെ കുറവാണെന്നു കാണ്മാൻ സാധിക്കും.

മിസ്സിസ് തങ്കമ്മ എൻ. മേനോൻ: എന്നാൽ എന്തിനാണു് ഇത്ര ബുദ്ധിമുട്ടി ഈ ബില്ലിൽ 12 വയസ്സു കഴിഞ്ഞതിനുശേഷമെ പെൺകുട്ടികളെ കല്ല്യാണം കഴിച്ചു കൊടുക്കാവൂ എന്നു നിശ്ചയിച്ചതു്? എന്തിനാണു് അങ്ങിനെ ഒരു വ്യവസ്ഥ ചെയ്തതു്?

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മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഞങ്ങൾക്കങ്ങിനെ വേണമെന്നില്ല. അതിന്നു് സമുദായത്തിലെ ആക്ഷേപവും ഉണ്ടായിട്ടില്ലല്ലൊ?

മിസ്സിസ് തങ്കമ്മ എൻ. മേനോൻ: ഫർ വയസ്സു കഴിഞ്ഞ ഒരു തീയ്യ സ്ത്രീയെ കല്ല്യാണം കഴിച്ചുകൊടുക്കാൻ പാടുള്ളു എന്നു് തീയ്യ ബില്ലിൽ നിയമമുണ്ടു്. ബാല്യത്തിലെ വിവാഹം നല്ലതായിരുന്നെങ്കിൽ പിന്നെ എന്തിനു് അതു വേണ്ടെന്നുവെച്ചു?

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ബഹുമാനപ്പെട്ട ലേഡി മെമ്പർ യുക്തിപൂർവ്വം പറഞ്ഞതിനെ ഞാൻ അഭിനന്ദിക്കുന്നു. എന്നാൽ അതേസമയം തന്നെ, തീയ്യ ബില്ലിനെ കുറിച്ചു രാജ്യത്തിന്റെ നാനാഭാഗങ്ങളിൽനിന്നും ഒരു റഫറണ്ടം എടുത്തിരുന്നുവെങ്കിൽ നിശ്ചയമായും അങ്ങിനെ ഒരു നിശ്ചയം ചെയ്യുന്നതിൽ എതിർപ്പുണ്ടായിരിക്കുകയില്ല എന്നു് ഞാൻ ധൈര്യമായി പറയുന്നു. ഇവിടെ എതിർപ്പുകാണാന്നതുകൊണ്ടാണു് ഇതു പറയേണ്ടിവന്നതു്?

Mr. K. R. Viswambharan *(Trichur-Ezhuvas):* There was no objection to that community. That point is not correct. There was no opposition for that.

Mr. President: I think the Hon'ble Member may better pass on to the next point.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഞങ്ങളുടെ തീയ്യ ബില്ലിന്റെ ഉദ്ദേശം അതുമാത്രം അല്ലായിരുന്നു. ഞങ്ങളുടെ പുരുഷന്മാർ അഞ്ചും ആറും സ്ത്രീകളെ വിവാഹം കഴിച്ചിരുന്നു. ആ ഒരേർപ്പാടു് ഇല്ലാതാക്കണമെന്നുണ്ടായിരുന്നു. പിന്നെയൊന്നു ഞങ്ങളുടെ സ്ത്രീകൾക്കു സ്വത്തവകാശം കൊടുത്തിരുന്നില്ല. ഈ രണ്ടു കാര്യങ്ങൾക്കു് നിവാരണമുണ്ടാക്കുക എന്നുള്ളതായിരുന്നു ആ ബില്ലിന്റെ പ്രധാനോദ്ദേശം. മറ്റുള്ള കാരണങ്ങളൊക്കെ ബില്ലിന്റെ formality കൊണ്ടുവന്നുവെന്നെയുള്ളു. We are not very particular about all these sections. ഇപ്പോൾ രാമചന്ദ്രയ്യരുടെ ഭേദഗതി തമിഴ് ബ്രാഹ്മണരെ ഒട്ടാകെ ഒഴിവാക്കണമെന്നാണു്. അതേസമയം ബഹുമാനപ്പെട്ട ചാലക്കുടി മെമ്പർ അതിലും സ്വല്പം വ്യതിയലിച്ചുകൊണ്ടു്, ഒരു സമുദായത്തെ മുഴുവൻ നേരത്തെതന്നെ ഒഴിവാക്കി നിറുത്താൻ പാടില്ല; ഏതു സമുദായമായാലും വേണ്ടില്ല ഈ ബിൽ നിയമമാക്കി മുന്നു കൊല്ലത്തിന്നകം അപേക്ഷകൊടുത്താൽ ഒഴിവാക്കണമെന്നാണു്. ഇതിന്റെ രണ്ടിന്റേയും ഉദ്ദേശം ഏതാണ്ടു് ഒന്നാണു്. ബഹുമാനപ്പെട്ട ചാലക്കുടി മെമ്പറുടെ ഭേദഗതികൊണ്ടു് ഗവമ്മെണ്ടിനു ലാഭമുണ്ടെന്നേയുള്ളു.

മിസ്റ്റർ എ. വി. മുത്തേടൻ: എന്താണു് ലാഭം?

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: സ്റ്റാമ്പിനു ചിലവുണ്ടു്. ഓരോ വീട്ടുകാരും അവരുടെ അപേക്ഷ അയച്ചു കൊടുക്കേണ്ടിവരും. അതിലേയ്ക്കു സ്റ്റാമ്പിന്റെ ചിലവുണ്ടു്.

അതിനാൽ, ഞാൻ മിസ്റ്റർ രാമചന്ദ്രയ്യരുടേയും മിസ്റ്റർ മുത്തേടന്റേയും ഭേദഗതികളോടു യോജിക്കയും ഈ നിയമസഭ ഇതിന്റെ ഗൌരവത്തെ നല്ലവണ്ണം മനസ്സിലാക്കി ഒരു സമുദായത്തെ അടിച്ചമർത്താൻ ശ്രമിക്കരുതെന്നും എണ്ണത്തിലല്ലെങ്കിലും മറ്റു സകല സംഗതികളിലും മുന്നണിയിൽ നില്ക്കുന്ന

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ഒരു സമുദായത്തെ അധഃപതിപ്പിക്കുമെന്നും ഉള്ള ധാർമ്മികവശം വെച്ചുംകൊണ്ടു പ്രവൃത്തിക്കണമെന്നു് ഈ നിയമസഭയോടു അപേക്ഷിച്ചുകൊണ്ടു് ഞാൻ ഈ ഭേദഗതികളെ അനുകൂലിക്കുന്നു.

Mr. T. V. Subramania Ayyar *(Nemmara):* Mr. President Sir, I confess that it was with a feeling of reluctance that I took up my present attitude in regard to this Bill. With pardonable pride, Sir, I may state that so far as my activities are concerned, either in my own constituency or within this Council, I have not taken up hitherto any communal line. With regard to the consideration of every question, I have brought to bear on the subject my independent views unbiassed or uninfluenced by any communal considerations. It is with some pain that I have to adopt this attitude in regard to this particular Bill. The concensus of opinion among my community, which I took pains to know first hand not only from signed petitions but by investigation in my village and other places, I have been able to find out to be is that definitely the majority of my community is against this Bill. And so long as I belong to that community and so long as I continue to represent a constituency wherein nearly 40 per cent of the voters are from that community, I thought that in duty to my community as well as to my constituency, I cannot but oppose this Bill.

Mr. C. V. Iyyu *(Kunnamkulam):* Are there not Brahmin women as voters there?

Mr. T. V. Subramania Ayyar *(Nemmara):* There are.

Mr. C. V. Iyyu *(Kunnamkulam):* Then you must educate your constituency. *(Laughter).*

Mr. T. V. Subramania Ayyar *(Nemmara):* So, the attitude with regard to this Bill, so far as my community is concerned, seems to be one of opposition and therefore, I am constrained to oppose this measure.

Dr. A. R. Menon *(Minister for Rural Development):* What is your individual opinion? Let us know that also.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* It is different. That is why he said "I am constrained to oppose".

Mr. T. V. Subramania Ayyar *(Nemmara):* I have already given that. I refer the Hon'ble Minister to Volume V of Legislative Council Proceedings.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* And page?

Mr. T. V. Subramania Ayyar *(Nemmara):* Page, I shall give you by and by.

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Without meaning any disparagement or casting any aspersion on any hon'ble member in this House, I have not seen another body in which this communal question is discussed from the question time in the morning up to the last cut-motion in the evening every day *(Laughter)*.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* Have you attended any other Council?

Mr. T. V. Subramania Ayyar *(Nemmara):* Yes. I have attended some, although not as a member, but from the Visitor's gallery *(Laughter)*.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* I have also attended some other Councils but my views are different.

Mr. T. V. Subramania Ayar *(Nemmara):* But from the experience I have gained from attending other Councils—I hope I have attended more Councils at any rate than the Hon'ble Member for Trichur-Ezhuvas—I speak that subject to correction *(Laughter)*.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* But with little advantage.

Mr. T. V. Subramania Ayyar *(Nemmara):* I think, I have profited by that. But not at all have been I profited by many of the speeches delivered by the Hon'ble Member for Trichur-Ezhuvas!

I do not wish to say anything more than that there is a very strong feeling among many of the members of this Council that whenever some question is raised, it refers to some particular community. Ezhuva wants to safeguard his own community, Caste-Hindus want to safeguard their own community, Christians do likewise, and other communities also do likewise.

Whenever any question crops up in this House, the communal spectacle is put on and the thing is viewed in a critical fashion through the communal spectacles. Anyhow, it will be too late in the day for me to try to convert the hon'ble members or to attempt to convert myself.

Mr. C. V. Iyyu *(Kunnamkulam):* It is a very bad reflection on the nationalists of this House?

Mr. T. V. Subramania Ayyar *(Nemmara):* Who are the nationalists?

Mr. C. V. Iyyu *(Kunnamkulam):* The so-called Cochin Congress.

Mr. T. V. Subramania Ayyar *(Nemmara):* I do not want to cast any reflection on any hon'ble member or any party in this

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House. That is not my purpose. Without casting any reflection on the conduct of any of the hon'ble members of this House, I wish to say that the feeling seems to be that the politics in this State is such that every community must be on the alert to safeguard its own position. But the basis on which they want to safeguard their interests refers only to what I may call the economic side. It is only when a job which carries a salary with it that comes into discussion in this Council that communal considerations mostly come into play.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* Panchayat nominations also.

Mr. T. V. Subramania Ayyar *(Nemmara):* Yes. Panchayat nominations carrying some dignity. In regard to the nomination of Panchayat Judges also, communal questions are dragged in and much questioning goes on between one side and the other. All the same, it is only to safeguard one's own political r ights—that is a very sensible view. But here, I do not want any job for my community based on communal claims. I have not pleaded for any more jobs for my community either directly or indirectly. I have not backed up any application with a recommendation letter. I have not put in any claim for Brahmins for more jobs, because they are Brahmins.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* They do not stand in need of it.

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, it has become the fashion of this House to impute motives for every sentence that is said here. It was out of conviction that I did not do that. I do not attempt to canvass for a particular political right by claiming that I belong to a particular community. I am not in the habit of doing anything like that to safeguard the political rights of Brahmins. I come here and claim Sir, from this hon'ble House that our conscientious and religious rights may be safeguarded. I am pleading the cause of a minority community whose name is never heard in this Council whenever communal questions are discussed. I hear only three names—the Nayar, the Ezhuva and the Christian. I am glad that my community's name is not dragged in. But when I have made no special attempt on behalf of my community to acquire any political right on communal basis, what I now want is only that the humble Brahmins who form the minority in this State may be allowed to live their own lives without being influenced by any legislative measure which will affect their conscientious or religious rights. Rightly or wrongly, the orthodox Brahmin thinks that his religious rights will be affected by passing such a measure. Rightly or wrongly, he feels that he has great conscientious objection if such

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a measure restricting the marriage of his daughters is passed. I ask you, Sir, when each and every hon'ble member of this House is exhibiting so much communal spirit for the purpose of political rights to his own community, is it too much for me to ask on behalf of my own community, that their conscientious and religious rights may be safeguarded?

Mr. M. L. Joseph *(Latin Christians-Cranganur):* Will it not affect the health of the community?

Mr. T. V. Subramania Ayyar *(Nemmara):* I protest against the light manner in which this discussion is treated. This is a very serious measure which must be considered in a very serious fashion. The whole convention of this House has been against this and without meaning anything sinister, Sir, I must say a word with regard to the remarks of Hon'ble the President on the subject. My friend, Mr. Ayyappan, was speaking about a convention which was existing in this House when the Hon'ble President was pleased to remark about the attitude of the Government of India in these matters, and he explained how the Government of India members thought fit to interfere in the case of social legislation and supported the measure, because they thought it was a measure which was necessary in the interests of public morality and public health. I quite follow. But then, so far as the Cochin Government is concerned, the attitude adopted in this House has been to give each and every individual Government member liberty of vote and liberty of speech. What does it mean? This Government has not considered this measure to be essential for the purpose of safeguarding morality or public health of this land. If the Government had felt that a measure restricting the marriage of girls below 14 is absolutely necessary in the interests of public morality and public health, then the Government itself ought to have introduced a measure of this kind. Either it is failing in its duty as a civilised Government, or the Government is not satisfied that such a measure is necessary. I take the second inference and say that so far as Cochin Government is concerned, it is not satisfied that a measure of this kind is necessary. Then again, if after the Bill was introduced by the Hon'ble Lady Member, the Government in its consideration felt that this measure is necessary in the interests of public morality and public health, Government ought to have supported this measure. It cannot remain neutral. The fact that the Government are remaining neutral, simply means that so far as this Government is concerned, they have not thought that this Bill is necessary in the interests of public health and public morality. Having said so far, Sir, with regard to this Bill, I am thankful also, Sir, for the instructions given to the members of the Government to vote as they like.

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In fairness and in justice I must also say, Sir, that there has been a feeling in some quarters of this House that the Government indirectly want to support this measure.

Mr. M. Sivarama Menon *(Advocate-General):* No, there is absolutely no such thing.

Mr. T. V. Subramania Ayyar *(Nemmara):* If I am wrong, I do not want to press that point. I only wanted to hear the assurance. My purpose is only to point out that so far as members sitting on the Government benches are concerned, they may be convinced that their vote is absolutely free and unfettered and that they can give their votes as they like.

Mr. M. Sivarama Menon *(Advocate-General):* I may say for the information of this House that there is no influence, either direct or indirect. Some of the Brahmin leaders have approached me to know what my attitude to the Bill is. I could not then have indicated to them my view if Government in any way influenced us.

Mr. T. V. Subramania Ayyar *(Nemmara):* I am very glad of it. I want only such a thing to come out. I am glad that you said that. My remarks are not intended against you at all. Now that the assurance has come that there is absolutely no influence, I am sure that I will find many supporters from the Government benches. One point which was stressed with some force by the hon'ble mover of the Bill as well as by the Hon'ble Minister for Rural Development by way of interruption when I was addressing the House last was this: "Is there one single Brahmin lady's signature against this Bill?" That was one of the interruptions made by the Hon'ble Ministsr. Now in the petition that I have presented here.....

Dr. A. R. Menon *(Minister for Rural Development):* I do not remember to have made any such declaration. Anyhow any lady will put her signature to any document which her husband presents, so that that is no argument.

Mr. President: That depends upon the relation between husband and wife. *(Laughter).*

Mr. T. V. Subramania Ayyar *(Nemmara):* In the petition which I have presented before this House, there are more than 500 ladies who have affixed their signature protesting against this Bill and claiming exemption so far as my community is concerned.

Mr. A. V. Moothedan *(Chalakkudi):* Are there widows also among the signatories?

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Mr. T. V. Subramania Ayyar *(Nemmara):* I want notice.

Mr. P. Govinda Menon *(Mulakunnathukavu):* There are other communities also who are affected by this Bill.

Mr. T. V. Subramania Ayyar *(Nemmara):* It is not in dispute now. This measure will affect mainly the Tamil Brahmin community in the State. Most of the cases that come up under this Act will be from the Brahmin community. Now let us see the opinions given by some of the leading members of our community in the State.

Dr. A. R. Menon *(Minister for Rural Development):* On a point of order Sir, we are now discussing an amendment and not the general principles of the Bill. This is all read last time. I request the hon'ble member to confine his remarks on the amendment.

Mr. T. V. Subramania Ayyar *(Nemmara):* The amendment relates to the exemption of a certain community altogether from the operation of the Bill.

Mr. President : In view of the very elaborate discussion that had taken place on a previous occasion, repetitions of the same arguments cannot be allowed on the amendments also.

Mr. T. V. Subramania Ayyar *(Nemmara):* I only wanted to draw the attention of this House to the opinions expressed by some of the leading members of the Brahmin community. It is not my intention unnecessarily to prolong the speech. The amendment before the House is that the Brahmin community is to be exempted. It is quite relevant, in this connection, to read the opinions of the leading gentlemen of the community. "Social legislation relating to a minority community should be fully justified and should be undertaken only where there is serious injury caused to the community and it clamours for the same." That is the opinion of Sir C. V. Ananthakrishna Ayyar, Mr. V. B. Vaidyanatha Ayyar, retired Chief Justice, Mr. A. K. Venku Ayyar, retired Secretary to Government, Mr. T. S. Balarama Ayyar of Trichur, Mr. P. S. Ramaswami Ayyar and Mr. C. H. Subramania Ayyar. All people who are leading members of the community have given their opinion that the Tamil Brahmins must be exempted from the operation of this Act. Several *Samoohams* of the State representing the community in particular localities have given it as their opinion that this Bill will cut at the root of the long cherished sentiments and beliefs of the Brahmin community and as such, the community must be exempted. In the presence and in the face of all these opinions of the leading members of a particular community, I say with all the

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force at my command that this Council, consisting of members of communities other than the community to which I belong, should not, by mere majority, vote to carry out a piece of legislation to the detriment of that community. Without meaning anything else, I say, whenever a measure is introduced which particularly affects a minority community, it is the duty of other members to see that their vote does not in any way cause any hardship on that community. In this connection, I may also point out to this Hon'ble House that when a legislation of this kind was introduced in Travancore, an amendment of this nature was also carried there. I am reading from a Malayalam paper. സക്കാർ ഗസറ്റിൽ പ്രസിദ്ധപ്പെടുത്തി. "നമ്മുടെ ഗവൺമെൻറിനു ഏതു സമുദായത്തേയും ഈ റഗുലേഷന്റെ പ്രവർത്തനത്തിനു" ഒഴിവാക്കാവുന്നതും ഈ റഗുലേഷൻ പാസായിട്ട് നു മാസം കഴിയുന്നതിനുമുമ്പായി ഇതിലേക്കുവേണ്ടി അപേക്ഷിക്കുന്ന തിരുവിതാംകൂറിലെ ഏതൊരു ബ്രാഹ്മണകുടുംബത്തേയും ഒഴിവാക്കാവുന്നതുമാകുന്നു". Such an amendment was tabled in that Legislative Council and it was passed. By way of analogy I say that the Brahmin Community here is more or less in the same position as the Brahmin Community in that place.

Dr. A. R. Menon *(Minister for Rural Development):* What became of that Bill ?

Mr. T. V. Subramania Ayyar *(Nemmara):* The Bill was subsequently thrown out.

Mrs. Thankamma N. Menon *(Ernakulam-Women):* What about the Brahmins in British India ?

Mr. T. V. Subramania Ayyar *(Nemmara):* The position of other communities in Travancore is more or less the same as in this State. There is absolutely no difference between Travancore and Cochin so far as social matters are concerned.

Dr. A. R. Menon *(Minister for Rural Development):* Is there any difference between Brahmins in Palghat and Cochin State ?

Mr. T. A. Ramachandra Ayyar *(Nellayi):* Are there not Nambudiris in Malabar?

Mr. T. V. Subramania Ayyar *(Nemmara):* Even now, the Palghat Brahmins are against the Child Marriage Restraint Act as will be seen from the petitions and deputations waiting on the Governor-General and the Governor. I should also close my remarks by saying that the attitude taken up by Mr. Ayyappan, when the Bill was under consideration, was quite proper, and he, in recognition of the communal justice for which he was so notably stands with his great ability and advocacy, has seen the injustice

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involved in this measure and I do hope that he will use his great influence to see that this amendment is accepted by the House.

Mr. President : The House has been complaining that there are several non-official Bills and that the time allotted to them is insufficient. If there is no new argument to be advanced, it is for the House to consider whether it will serve any useful purpose in prolonging the discussions on this amendment.

Mr. V. K. Bhaskara Menon *(Cranganur):* Sir, I have one new argument. As I understand the Bill, I think it is a realisation by the Non-Brahmins of the Brahmin menace. The Tamil Brahmins that we now see here are the product of the good old vicious system. It is admitted that the Brahmins are a superior class in point of view of intellect and it is becasuse of this fact that there is a tremendous agitation against their hegemony. Therefore, my submission to this House is that by this Bill a community, who, by heritage as well as by tradition has been the most superior community as far as South India is concerned, a community which is the product of this vicious system of child marriage will be demolished by the removal of such an old established and venerated custom, against their will. The only motive that I can understand of the Hon'ble Lady Member for including the Tamil Brahmins within the scope of this Bill is to see that the Brahmin of the present day who are the products of this vicious system should be really annihilated. I do not think any member of the Council would be a party to the annihilation of a part of His Highness' subjects. Therefore, I have great pleasure in supporting the amendment tabled by Mr. Ayyar to the effect that the Brahmin Community should be preserved with its old customs.

Mr. President : Any more original arguments ? *(Laughter).*

*മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ : സർ, നമ്മുടെ ഇ ബില്ലിന്റെ അവതാരകി എറണാകുളം നിയോജകമണ്ഡലത്തിലെ സ്ത്രീകളുടെ പ്രതിനിധ്യം വഹിക്കുന്നുണ്ടെങ്കിൽ എന്റെ നിയോജകമണ്ഡലത്തിലെ മഹിളകളുടെ പ്രതിനിധ്യം ഞാനും വഹിക്കുന്നുണ്ട്. വളരെ മഹിളകൾ എന്നിക്ക പോട്ടച്ചെയ്തിട്ടുണ്ട്. അങ്ങിനെ ഞാൻ പുരുഷന്മാരുടേയും സ്ത്രീകളുടേയും പ്രതിനിധി എന്നനിലയിലാണ പറയുന്നതു.

ദിവാൻ പ്രസിഡണ്ടു അവർകൾ ഇവിടെ പ്രസ്താവിക്കയുണ്ടായതു ശൈശവവിവാഹ സമ്പ്രദായം മാറണമെന്നുള്ളതു് ആരോഗ്യസംബന്ധമായ പ്രിൻസിപ്പിളിനെ അടിസ്ഥാനപ്പെടുത്തിയാണെന്നാണു്. ശൈശവവിവാഹംകൊ

*Speech not corrected by the hon'ble member.

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ണ്ട് ശൈശവമാതാക്കും അധികമാകുന്ന ആപത്തിനെ ഇല്ലാതാക്കാനായിട്ട് വിവാഹപ്രായം എട്ട വയസ്സു എന്നു വെച്ചിരുന്നെങ്കിൽ അതുകുറെ ഗുണമായിരുന്നു. അതു ബഹുമാനപ്പെട്ട മെമ്പറൊ ബില്ലിലൊ പറഞ്ഞുകാണുന്നില്ല. അതുകൊണ്ടു ആരോഗ്യസംബന്ധമായ പ്രിൻസിപ്പിളിനെ അടിസ്ഥാനമാക്കിയാണു ഈ ബിൽ കൊണ്ടുവന്നിട്ടുള്ളതു എന്നു തോന്നുന്നില്ല.

ഇപ്പോൾ കൊച്ചിരാജ്യത്തിലുള്ള തമിഴ ബ്രാഹ്മണരെ ഈ ബില്ലിൽനിന്നും ഒഴിവാക്കണമെന്നുള്ളതാണ് ഈ ഭേദഗതികൊണ്ടാവശ്യപ്പെടുന്നതു്. ഈ നടപടി തമിഴബ്രാഹ്മണർക്കുമാത്രമാണുള്ളതെന്നാരും ധരിക്കേണ്ട. വളരെകൊല്ലങ്ങൾക്കു മുമ്പുതന്നെ ഉള്ളോരം രണ്ടായിരം കൊല്ലങ്ങൾക്കു മുമ്പു എഴുത്തിട്ടുള്ള ചിലപ്പതികാരം എന്ന പുസ്തകത്തിൽ ഇതിനുദാഹരണമുണ്ട്. അതിൽ ഒരിടത്തു

"ഭോഗങ്ങളും പുരുകീർത്തിയും വായ്ക്കുന്ന
താകും പുകാറെന്നീപട്ടനെത്തിൽ
വാനിൽപ്പുയാടം മഴപൊഴിക്കുംപോലെ
ദാനംകൊണ്ടെങ്ങും പുകൾപെരുകും
മാനായ്കൽ വംശമായീടുന്നകൊമ്പിനേൽ
പൂണനോരാകാശപ്പൊൻകൊടിയായ്
ഇരാറാണ്ടങ്ങു തികയാത കന്യക
വാരിജമങ്കയെപോൽ വിളങ്ങി"

ഇതിൽ പന്ത്രണ്ടു വയസ്സായ പെൺകുട്ടി കല്ല്യാണത്തിനു തയ്യാറായി എന്നാണു പറഞ്ഞിരിക്കുന്നതു്.

Mr. President: That was the reason of the tragedy of that story.

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ: ഇതുപോലെ തന്നെ പുരുഷനെപ്പറ്റിയും പറഞ്ഞിട്ടുണ്ട്.

"പേരാകുമാരനു കോവിലനെന്നപോ-
ലീരെട്ടാണ്ടൊട്ടതികഞ്ഞതില്ല"

ഇതിൽ നിന്നു എട്ടു വയസ്സായ സ്ത്രീയും എന്നു വയസ്സായ പുരുഷനും തമ്മിൽ വിവാഹം നടന്നുവെന്നു തെളിയുന്നുണ്ട്. ഇതുകൊണ്ടു ഈ നടപടി രണ്ടായിരം കൊല്ലങ്ങൾക്കു മുമ്പു് അബ്രാഹ്മണ സമുദായത്തിലും ഉണ്ടായിരുന്നുവെന്നു മനസ്സിലാകുന്നുണ്ട്.

ഈ ബിൽ പാസ്സായാൽ ഇവിടെ ബ്രാഹ്മണർക്കു പല ആപത്തുകളും വന്നുകൂടാനിടയുണ്ട്. എന്തെന്നാൽ ഈയിടെ അമ്പലവാസി സമുദായത്തിലെ രണ്ടുകക്ഷികൾ—ഒരു പിഷാരടി സ്ത്രീയും ഒരു വാര്യരും തമ്മിൽ വിവാഹം കഴിച്ച കാരണത്താൽ ആ പിഷാരടി സ്ത്രീക്കു് ഭ്രഷ്ടു് കല്പിക്കയുണ്ടായിട്ടുണ്ട്.

മിസ്റ്റർ കെ. ആർ. വിശ്വംഭരൻ: ആരു്?

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ: അതിനു ഗവർമ്മെണ്ടു് പ്രൊസീഡിംഗ്സുണ്ടു്. അതുപോലെ ഒരു നായർസന്ന്യാസി ഒരു നായർ സ്ത്രീയെ വിവാഹം കഴിച്ചിട്ടു ആ സ്ത്രീയെ ഭ്രഷ്ടയാക്കി. അതുപോലെതന്നെ നമ്പൂതിരി ബില്ലിൽ പരിവേദനം ആകാമെന്നു വെച്ചിട്ടുണ്ടു്. അതനുസരിച്ചു ഒരു നമ്പൂതിരി ഒരു പരിവേദനം നടത്തിയതിൽ വലിയ ആക്ഷേപമുണ്ടായി. പരിവേദനത്തിനു തെറ്റു പറയാൻ പാടില്ലെന്നുവന്നപ്പോൾ ഗോത്രത്തിനു വി

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രോധമാണെന്നായി. ഗോത്രത്തിനു വിരോധമില്ലെന്നു കണ്ടപ്പോൾ ഗണത്തിനു വിരോധമുണ്ടെന്നായി. അതിനും വിരോധമില്ലെന്നു വന്നപ്പോൾ കുലത്തിനായി ദോഷം. എങ്ങിനെ ആയാലും അയാൾക്കു അമ്പലത്തിൽ കടക്കാൻ പാടില്ല, കുളങ്ങിൽ തൊടാൻ പാടില്ല.

അതുപോലെ ഈ ബിൽ പാസ്സായാൽ ബ്രാഹ്മണ സമുദായത്തിലെ ആളുകൾക്കും വൈദികന്മാർക്കും മറ്റും ട്രഷ്ട് കല്പിക്കാനിടയാകയില്ലെന്നാരറിഞ്ഞു? ഇത്ര നിസ്സാരമായ സനാതനകാര്യങ്ങൾക്കു ഇത്രവലിയ ശിക്ഷകൊടുക്കുന്ന ഈ രാജ്യത്തിൽ ഞങ്ങൾക്കും ഒരു ശിക്ഷകിട്ടുകയില്ലെന്നു എങ്ങിനെ വിശ്വസിക്കാം. അതുകൊണ്ടു ഈ ഭേദഗതിയിൽ പറയുന്നതുപോലെ ആവശ്യമുള്ള സമുദായത്തെ ഒഴിവാക്കാമെന്നു വെയ്ക്കുകയാണെങ്കിൽ യാതൊരു വിരോധവുമില്ല. തല്ക്കാലം അവരെ ഒഴിവാക്കീട്ട് പിന്നീട അവരെ ചേർക്കണമെന്നുണ്ടെങ്കിൽ അതിനു ഒരു അമെൻറുമെണ്ടും ഇവിടെ കൊണ്ടുവരാവുന്നതാണ്. അവതാരകൻ പറകയുണ്ടായി ഏതൊ മഹിളാസമാജത്തിൻറെ അഭിപ്രായമനുസരിച്ചാണു ഈ ബിൽ കൊണ്ടുവന്നതെന്നു്. അതുകൊണ്ടു ഈ അമൻറ്മെണ്ടു് സ്വീകരിച്ചു പാസ്സാക്കുന്നപക്ഷം അങ്ങിനെ ഒരു ബിൽ പാസ്സാക്കി എന്നെങ്കിലും സമാധാനിക്കാവുന്നതാണ്. ബഹുമാനപ്പെട്ട അവതാരകനോടു ഈ അമണ്ടുമെൻറു സ്വീകരിക്കണമെന്നു അപേക്ഷിച്ചുകൊണ്ടു അവസാനിപ്പിക്കുന്നു.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* I want to support the amendment.

Mr. President : I think there have been sufficient discussion on the amendment.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* I move that the question be now put.

Mrs. Thankamma N. Menon *(Ernakulam-Women):* I second it.

Closure motion put and carried; 31 voting for and 7 against

Mr. T. S. Ramachandra Ayyar *(Chittur-Tattamangalam):* *Add "except the Tamil Brahmin Community who follow the Mithakshara Law" after the words "may be" in Sub-section (ii), Section 1.*

I have no new argument to advance. What I wish to say may be a repetition of the arguments I used in the last discussion. I may give a summary of all the arguments, if the President will kindly allow me to do so.

Mr. President : No, I cannot allow that.

Amendment of Mr. T. S. Ramachandra Ayyar put and lost

Amendment of Mr. A. V. Moothedan put and lost.

Clause 1 put and carried.

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Mr. President : Some new amendments on clause 2 have been handed over now. I canot allow them to be moved at such short notice.

Clauses 2 and 3 put and carried

The House rose for lunch at 1 p.m. and reassembled at 2-30 p.m. with Mr. K. Ayyappan, Deputy President, in the Chair.

Clause 4

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, I rise to move the amendment standing in my name. The amendment reads thus.—

"In clause 4 of the Bill, omit the words "with simple imprisonment which may extend to one month, or" and the words "or with both".

As at present drafted clause 4 reads thus.—

"Whoever being a male above 21 years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to Rs. 1,000 or with both."

My attempt is only to abolish the punishment of imprisonment for the offence. Since the measure is being introduced for the first time here and since it is not likely that all the people living in the villages will get to know the provisions of the Bill, and also with a view not to take the offenders so seriously and award them very severe punishment.....

Deputy President : If the amendment is accepted, how will this section read ?

Mr. T. V. Subramania Ayyar *(Nemmara):* It will read thus: "Whoever being a male above 21 years of age contracts a child marriage shall be punishable with fine which may extend to Rs. 1,000". I suppose there is no drafting mistake. My object is only to omit imprisonment and instead of that, give punishment by way of fine only for offences of this kind.

Mr. C. R. Iyyunni *(Trichur-South):* On a point of information, Sir. Suppose that fine is not paid, is there any other penalty ?

Mr. T. V. Subramania Ayyar *(Nemmara):* In default of fine the provision in the Criminal Procedure Code will come in, that when a fine is not paid immediately under section 35 or so, alternate punishment will be awarded.....

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Mr. E. Ikkanda Warriar *(Cheruthuruthi):* It is section 55 under Penal Code.

Mr. T. V. Subramania Ayyar *(Nemmara):* Even under nuisance cases, for example, riding a cycle without light, the offender is fined Re. 1 and in default, he will have to undergo imprisonment for a week. There is always that power to the court that in default of fine, to award imprisonment.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* You mean substantive.

Mr. T. V. Subramania Ayyar *(Nemmara):* Yes. We are introducing a new legislation and it is not fair to give all on a sudden such severe punishments.

Mr. T. P. Poulose *(Kanayannur):* Sir, I have one doubt to be cleared. Even if imprisonment is abolished, if the fine is not paid, the hon'ble member has stated that the provision in the Criminal Procedure Code will come into operation. But lower down in the Bill, there is another clause, clause 7, which excludes the operation of the provision in the *Penal Code* with regard to the commutation of fine into imprisonment. Clause 7 is this: "Notwithstanding anything contained in section 23 of the Cochin General Clauses Act, III of 1079, or section 55 of the *Cochin Penal Code*, a court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of fine imposed, he shall undergo any term of imprisonment".

Mr. T. V. Subramania Ayyar *(Nemmara):* I do not know what is section 55.

Mr. M. Sivarama Menon *(Advocate-General):* Section 55 lays down that in default of payment of fines, the court has got powers whereby it can amend sentences of imprisonment.

Mr. C. R. Iyyunni *(Trichur-South):* Is it not better to add that in default of fine being paid, a sentence of imprisonment shall be imposed by the court? In that case, very probably the mover of the Bill herself may accept it.

Mr. T. V. Subramania Ayyar *(Nemmara):* I have no objection.

Mr. T. P. Poulose *(Kanayannur):* The difficulty is all the more on account of the nature of the amendments proposed by the hon'ble member himself. Clause 7 as it stands, refers only to section 3 and the Hon'ble Member for Nemmara has tabled an amendment

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to the effect that sections 4, 5 and 6 should be included within the scope of section 7.

Mr. T. V. Subramania Ayyar *(Nemmara):* My object is only to avoid imprisonment. I have no objection in giving punishments in default of fine. So that, if the House is agreeable and the Chair will allow me, I shall change the amendment thus: "*Shall be punishable with fine which may extend to Rs. 1,000 and in default, simple imprisonmet not exceeding 6 months.*"

Mr. M. Sivarama Menon *(Advocate-General):* Section 7 creates all the difficulty. There is no amendment to delete that section. Section 7 reads thus: "Notwithstanding anything contained in Section 23 of the Cochin General Clauses Act, III of 1079, or section 55 of the *Cochin Penal Code*, a Court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment". You have given notice of an amendment to include sections 4, 5 and 6 in the scope of this clause. That means, you want to negative the effect of the *Penal Code* by enactment of section 7. If you are going to provide that 6 months' simple imprisonment in default of fine should be awarded in clause 4 and if clause 7 is retained, it becomes inconsistent. Clause 7 controls other clauses. It is a matter which requires consideration.

Mr. T. V. Subramania Ayyar *(Nemmara):* My amendment is there. If the House accepts the principle, it may somehow or other go in. But it shuld be in such a way that it is not inconsistent with the Act itself.

Mr. M. Sivarama Menon *(Advocate-General):* This will go against the amendments tabled by you.

Mr. T. V. Subramania Ayyar *(Nemmara):* I quite follow. I am willing to accept any proposal which is forthcoming from any hon'ble member of this House so that my object may be attained. If necessary, we can delete clause 7.

Mr. T. P. Poulose *(Kanayannur):* How can we say that now? Clause 7 is not before the House at present.

Mr. T. V. Subramania Ayyar *(Nemmara):* I have tabled an amendment to clause 7 proposing that "sections 3, 4, 5 and 6" may be inserted in it. I am willing not to move that amendment.

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Mr. K. Achyuta Menon *(Secretary to Government):* Clause 3 applies only to adults below 21.

Mr. T. P. Poulose *(Kanayannur):* Now I see the point. Clause 3 applies to only adults below 21. There is an amendment proposed by the same member to add clauses 4, 5 and 6 to clause 7. If clauses 4, 5 and 6 are included in clause 7 then only this difficulty will arise.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* I think, under the scheme of things, the Hon'ble Member for Nemmara will be agreeable not to press his amendment to clause 7. In that case, there is no difficulty.

Mr. T. V. Subramania Ayyar *(Nemmara):* I have no objection in accepting the hon'ble member's suggestion. I am not going to move that amendment.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* Sir, I second the amendment.

Mr. M. Sivarama Menon *(Advocate-General):* You will be making no distinction between adults below 21 and guardians.

Mr. C. R. Iyyunni *(Trichur-South):* With regard to clause 7, a person who is above the age of 18 and below the age of 21 can only be fined and he cannot be sent to jail if the fine is not paid. Withr regard to the rest, if the fine is not paid, then you can send them to jail.

Mr. M. Sivarama Menon *(Advocate-General):* Yes, that is so.

Mr. T. P. Poulose *(Kanayannur):* The distinction under clause 7 will only apply to adults below 21.

Mr. T. V. Subramania Ayyar *(Nemmara):* In one respect it will work more hardship, in the case of adults below 21.

Mr. C. R. Iyyunni *(Trichur-South):* There is no difficulty. As per clause 7 a person who is above the age of 18 and below the age of 21 has to pay only a fine. Suppose he does not pay the fine, nothing can be done and he cannot be sent to jail. It is for that specific purpose that clause 7 is enacted.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* You can move the amendments to clauses 4, 5 and 6 as originally tabled and withdraw amendment to clause 7.

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Mr. T. V. Subramania Ayyar *(Nemmara):* Yes, I do that

Deputy President: Is the mover amenable to this amendment being accepted ?

Mrs. Thankamma N. Menon *(Ernakulam-Women):* If the House agrees, I have no objection. I have no knowledge in law.

Amendment accepted by the mover and clause 4 as amended put and carried.

Clause 5

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, I move that "*In clause 5 of the Bill omit the words "with simple imprisonment which may extend to one month, or" and the words "or with both".* The same principle which was applied in the case of clause 4 is sought to be applied here also, *i.e.*, imprisonment may be avoided and a fine alone may be imposed and in default of payment of fine, imprisonment.

Deputy President: Do you accept the amendment ?

Mrs. Thankamma N. Menon *(Ernakulam-Women):* Yes.

Clause 5 as amended put and carried

Clause 6

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, I move that *in clause 6 (1) omit the words "with simple imprisonment which may extend to one month, or" and the words "or with both".* Here also imprisonment is sought to be avoided. I hope the mover will agree to this amendment also.

Mr. M. Sivarama Menon *(Advocate-General):* There is a difficulty here. You must also omit that proviso. You may move that now, because it is a consequential amendment.

Mr. T. V. Subramania Ayyar *(Nemmara):* I also move that the following proviso to the clause may also be deleted: *Provided that no woman shall be punishable with imprisonment.*

Mr. M. Sivarama Menon *(Advocate-General):* You must also have in mind that if you delete the proviso the woman becomes

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liable to pay the fine and in default to undergo simple imprisonment for 6 months.

Mr. T. P. Poulose *(Kanayannur):* I wish to know whether this proviso, as it now stands, will prevent a woman being sent to jail in default of fine.

Mr. M. Sivarama Menon *(Advocate-General):* If you take away this proviso and retain the amendment, then the operative course of that clause will be something different. The woman will have to go to jail in default of payment of fine.

Mr. T. V. Subramania Ayyar *(Nemmara):* If only there is a substantive provision, there can be a proviso. If the amendment is accepted, then there is no meaning in retaining this proviso. With the Chair's leave I move that the proviso be deleted?

Deputy President: Do you accept the amendments?

Mrs. Thankamma N. Menon *(Ernakulam-Women):* Yes.

Clause 6 as amended put and carried

Clauses 7, 8, 9 and 10 put and carried

Clause 11

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, I move the following amendment to clause 11 (1).—

"In clause 11 (1), omit the words 'when the court takes cognizance of any offence under the Act upon a complaint made to it, it may for reasons to be recorded in writing" and insert after the words 'the attendance of the accused' and before the words 'require the complainant' the following words.—

'the court shall, except for reasons to be recorded in writing."

To make the amendment clear, I will read the clause as it will appear after the amendment proposed. "At any time after examining the complainant and before issuing process for compelling the attendance of the accused, the court shall, except for reasons to be recorded in writing, require the complainant to execute a bond with or without sureties for a sum not exceeding Rs. 100" and so on.

My object in tabling this amendment is this. Whereas, as given in the Bill, the usual course will be not to take security for Rs. 100, I make it obligatory on the court to take a security of Rs. 100 whenever a complaint is made to the court and has given the power to the

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court to dispense with the security for reasons to be recorded in writing. To speak technically the burden to prove that no security is necessary is re-shifted to the complainant whereas, as it is, the necessity for furnishing security has to be recorded in writing by the court. It is not of very much importance excepting for this purpose. In order to avoid vexatious complaints by the public, who have no other work to do, it is proposed that for complaints coming under this Bill it is necessary that a security of Rs. 100 must be furnished by the complainant. I also propose that the power may be given to the court for proper reasons to dispense with taking security. I may also state for the information of the House that the Bill of 1929 as originally passed by the Indian Legislative Assembly contained this section as I have now proposed. It was subsequently amended.

Mr. K. V. Menon *(Publicity Officer):* Why was it amended?

Mr. T. V. Subramania Ayyar *(Nemmara):* They wanted to have more powers.

Mr. A. V. Moothedan *(Chalakkudi):* Some difficulty might have been experienced in its working.

Mr. T. V. Subramania Ayyar *(Nemmara):* Not difficulty. It was thought better to dispense with security so that more complaints may come in. That was the main reason.

Mr. K. V. Menon *(Publicity Officer):* It was in order to facilitate the working of the Act.

Mr. T. V. Subramania Ayyar *(Nemmara):* It was in order to facilitate the complaints being given to the courts, so that action may be taken under the provisions of the Act. I do not at all pretend to hide my purpose. My purpose is that vexatious and frivolous complaints must be avoided. For that purpose, a security of Rs. 100 may be fixed. The ordinary rule will be for the court to demand security, but if the complainant says that if he is unable to pay security, then the court may order so in writing. I hope it does not militate against the principle underlying the section and I request the House that the amendment may be accepted.

Mrs. Thankamma N. Menon *(Ernakulam-Women):* I oppose the amendment.

Mr. V. J. Mathai *(Planters):* Sir, in these matters of taking securities, if I may take an analogy from the C. P. C., except in very extraordinary circumstances, it is always left to the discretion of the the court. Of course, there will be a judicial bestowal of its mind on the question. Here the only difference sought to be made is to

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change the word 'may' into shall; 'shall' is mandatory. 'May' is discretionary. I would leave it to the discretion of the court. The language of the amendment also seems to be unhappy.

Mr. T. V. Subramania Ayyar *(Nemmara):* I am only borrowing the Assembly language.

Mr. V. J. Mathai *(Planters):* We are also equal to any other Assembly. *(Hear, hear.)*

If you read the amendment you will see that the language is unhappy. I would suggest it is better to leave it to the discretion of the court. There is this main principle anyhow.

Amendment put and lost

Clause 11 put and carried

Clause 12

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, my amendment is *to omit Clause 12.* My object in tabling this amendment is this. Here again, I may state for the information of the House that the Bill as introduced in the Indian Legislative Assembly and passed by that body in 1929 did not contain a provision of this nature. It was only subsequently introduced by means of an amendment. I want by this amendment that the court should not be given the power of issuing injunctions against marriage. There is a provision, I believe, in the Criminal Procedure Code, wherein the District Magistrate is empowered to issue processes by means of warrant to take possession of the property or take possession of a person, in order to avoid any crime being committed. I know instances where maliciously, owing to some faction or otherwise, petitions are filed before the District Magistrate and then marriage is suddenly stopped to the great detriment of the parties concerned. The power of issuing injunction in respect of marriage by which the sanctity of marriage itself may be violated, will work great hardship in a country like India where very often owing to some faction or otherwise petitions may be filed maliciously with a view to put to trouble the other party and thus cause great inconvenience and loss to him. According to Hindu Law, marriage, whenever it takes place, becomes *factum valet,* a thing which cannot be dissolved. This will be giving too much power not only to the court but also to the police and also to the public at large. The means of getting information by the court is confined to the police generally, and the lower rungs of the police cannot always be entrusted with such an important work of supplyingi nformation to the magistracy, so that

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they may take action by way of restraining a marriage to be solemnised in the houses of private persons. It will be a violation of the sanctity of private life that courts should issue injunctions for stopping marriages. Therefore, I say that the power of issuing injunctions should not be granted to courts, but that punishments may be awarded by virtue of sections contained in the Act whenever an offence under the Act takes place. It must not also be forgotten that, for the proper working of the Act, no kind of provision will be effective unless the public opinion itself is educated, and even if the Bill is passed into law, it can only be a deterrent, a sort of rule that the public should not act in a particular way. But effective and proper result from any enactment can only be attained by popular support and also by education in the country. In these circumstances, it will be rather arbitrary to invest the courts with a power to restrain marriages in a country like India where marriage is looked upon more as a sacrament than as a contract. For all these reasons, I move that the power of granting injunctions restraining marriages may be taken away from the court and I do hope that this House will vote with me in omitting this clause.

*Mr. Puthur Achyuta Menon *(Kattur):* Sir, I second it. On one main ground, Sir, I can very well support this amendment moved by the Hon'ble Member for Nemmara. From the fact that the hon'ble the mover has consented to the amendments of sections 4, 5 and 6, it is clear that there may not be any practical objection in accepting this amendment also, because she has already consented to the course of paying Rs. 1,000 and conducting the marriage. The acceptance of those amendments is tantamount to the fact that by paying a penalty of Rs. 1,000, you can conduct the marriage without doing any mischief to the Act whatsoever.

Mr. C. R. Iyyunni *(Trichur-South):* Sir, that is not the point as I understand it. In the case of a marriage that has already been celebrated that is the penalty imposed. But this applies to cases of marriages that are going to be celebrated. Of course, there must be some preventive clause. It is for that purpose, that this clause, is introduced in the Bill.

Mr. Puthur Achyuta Menon *(Kattur):* I wish to correct the hon'ble member. By accepting those amendments, you have given the sanction to conduct the marriage by paying Rs. 1,000.

Mr. C. R. Iyyunni *(Trichur-South):* We are also taking care to prevent it by clause 12.

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* Speech not corrected by the hon'ble member.

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Mr. Puthur Achyuta Menon *(Kattur):* Now the idea seems to be to prevent the marriage. If I remember correct Sir, an essential requisite for the issuing of an injunction is breach of peace. So, it is only in exceptional circumstances that courts of law in our State use to grant injunctions. Now, the idea seems to be that even though there is a punishment for the offence committed, you are giving power to courts to interfere in marriages. In the light of the previous amendments accepted by the mover, there is no necessity for this clause being retained.

Mrs. Thankamma N. Menon *(Ernakulam-Women):* I oppose this amendment.

Mr. T. P. Poulose *(Kanayannur):* Sir, I oppose this. I do not want to make a long speech. Clauses 3, 4, 5 and 6 deal with punishments for offences actually committed. They originally provided for imprisonment also. The rigour of those provisions has been considerably lightened by abolishing imprisonment in accordance with the amendments moved by the Hon'ble Member for Nemmara. That is all the more reason why the preventive powers of the courts should be retained, so that offences may not be committed. Being a sort of social legislation and to some extent an enactment going against the sentiments of certain communities, we thought we would be justified in reducing the rigour of the punishments for offences against this law. But that is no reason for taking away the preventive powers of the court.

Mr. V. J. Mathai *(Planters):* Sir, 3 arguments have been advanced in favour of the amendment. One is that there will be malicious injunctions. For one thing the power which issues injunction is a court of law. If we doubt the court we cannot say that the court should be given power to commit a man to imprisonment or to send a man to jail or award the capital punishment. A court of law means an authority which passes a judgment after consideration of all the questions. Therefore, we need not be under the impression that all sorts of malicious injunctions can be obtained by anybody for the mere asking.

The second argument is that power will be given to the police. No power is given to the court absolutely under this Act. It is the court alone that can issue injunctions for prevention of certain breaches of law, both under Civil law as well as Criminal law. Notices will be issued to the other side under this clause and evidence will be taken, parties will be heard, and then alone an injunction will be issued.

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The third argument raised by my hon'ble friend Mr. Achyuta Menon is that the mover has allowed the taking away of the punishment of imprisonment. As has already been explained, it is against his own contention. It is an argument for the retention of this clause. Anybody who can afford to pay Rs. 1,000 can laugh at a court of law and say: "I am going to celebrate the marriage. Come and take Rs. 1,000". There are very many people who can afford to pay Rs. 1,000 to satisfy their whims and caprices. No man can be allowed to laugh at the court of law and say: "Take this Rs. 1,000; I am going to conduct the marriage".

Mr. Puthur Achyuta Menon *(Kattur):* If you can prevent the marriage, why should there be the punishment?

Mr V. J. Mathai *(Planters):* The person need not be sent to jail. That is all. If the court has no power to prevent an offence, then a detention in jail would be necessary. But, there being such a remedy, why go to the length of sending him to jail. That is the point. After all, it is not a felonious offence which merits imprisonment. So, it is an argument against. The basic principle of all legal enactments is that if there is an order that is a command, there must be a sanction behind that command. It is also another basic principle that a person who makes the command, here the law, should be in a position to see that it is carried out. Otherwise, there is no meaning in issuing an order. The power should be vested in the authority, here the Maharaja, to see that the law is carried out and breach of it is prevented. This is the principle underlying all provisions of law, both Civil and Criminal. As everybody knows, under the Criminal Procedure Code there is a definite chapter relating to prevention of offences and certain safeguards are laid down there, to prevent offences. I oppose the amendment not because I am so very enthusiastic about the legislation or on account of a feeling that it should be carried to the limit, but only to see that the general principles of legal enactments are followed here.

Amendment put and lost.

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, the next amendment to clause 12 that stands in my name is this. "*In clause 12(1) omit the words 'or otherwise' appearing after the word 'complaint'*". I am not pretending that I am on a very great amendment. It is not much. But a principle is involved in this. I want that the court's information must be strictly confined to the complaint and to the examination of the complainant and his witnesses. This is not a criminal offence. This is only a technical offence.

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Dr. A. R. Menon *(Minister for Rural Development):* It is a penal offence after the Act comes into force.

Mr. T. V. Subramania Ayyar *(Nemmara):* It is not a serious offence. For instance, driving a motor car in a particular manner and get punished is not a serious thing. It is not an offence which involves moral turpitude. Lord Curzon, when he was Foreign Minister, was fined 20 times for fast driving of his car. My purpose is only this. The court, when it takes cognizance of a complaint, its information must strictly be confined to the complainant and the evidence adduced by the complainant and his witnesses. As at present drafted, it is quite likely that the court may act on information received other than from the complainant. It may be from the police, or it may be from the public. My purpose is to shut the ears of the court as it were except to what is stated by the complainant and his witnesses. It cannot take judicial notice of its own information, which it gets either from the public or from the police. In this view, I am also supported by the opinion of a lawyer given in the opinions printed and circulated among the hon'ble members of the House. I submit that it is not a very serious amendment and I hope the hon'ble the mover will accept it.

Mrs. Thankamma N. Menon *(Ernakulam-Women):* I oppose the motion.

***Dr. A. R. Menon** *(Minister for Rural Development):* Sir, all this is due to a misconception of the purpose of this Bill. The object of the Bill is not to punish anybody after the crime, but, as far as possible, to prevent the occurence of any such crime. Of course, there is a clause there to punish those who violate the regulation. But, if it is possible to avoid recourse to such punishment, that is the best course to follow. There is a complaint from Mr. Achyuta Menon that the punishment has been reduced to a very great extent by removing the imprisonment portion and I perfectly agree with his view. The effect of the punishment has to a very great extent been lost by the removal of imprisonment. People, as he aptly observed, may be willing to pay a fine, but they may not be so very willing to go to jail. The reason why that amendment was pursuaded to be accepted by the Lady Member was that, in the course of the working of this Bill, if it is found that the fine alone is not potent enough to restrain people from committing this offence, nothing prevents any member of this House to bring forward an amendment to the effect that the word "imprisonment" may also be included. It is to avoid a vexatious feeling in the minds of those

* Speech not corrected by the hon'ble member.

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who are conscientiously opposing, or those who oppose on behalf of those conscientious objectors like my hon'ble friend sitting there, that that amendment was accepted.

Mr. T. V. Subramania Ayyar *(Nemmara):* I deny that statement.

Dr. A. R. Menon *(Minister for Rural Development):* You may deny it, but I am sure you cannot be opposing this measure with your culture and with your education.

Mr. T. V. Subramania Ayyar *(Nemmara):* What is the definition of culture? Firstly, we will have a discussion upon it.

Mr. C. V. Iyyu *(Kunnamkulam):* With his progressive views!

Dr. A. R. Menon *(Minister for Rural Development):* Of course, he is bound to do his duty as he is representing a large section of the Brahmin community. The moment the word "imprisonment" is removed, as has been aptly pointed out by my hon'ble friend, the necessity for the preventive measure becomes doubly necessary. Otherwise, why omit that word? The object of retaining these words is to prevent the occurence of such a marriage. Suppose some other source understands that a marriage is going to take place and that information is given to the judicial authority, what is the objection in taking action? Unless at the back of the mind of the mover of the amendment there is some idea of getting some loophole to violate the Act itself, I do not think this is the proper way to look at this measure after important clauses of the Bill have been passed. For these reasons, this amendment, I think, ought to be opposed.

Mr. T. P. Poulose *(Kanayannur):* Sir, Mr. Subramania Ayyar has pointed out that if this provision is retained in the Bill, courts of law may act on information furnished otherwise than through a complaint. He fears that courts may proceed arbitrarily and hardships may be caused to the individuals concerned. But sub-clause 2 says: "No injunction under sub-section 1 shall be issued against any person unless the court has previously given notice to such person, and has afforded to him an opportunity to show cause against the issue of such injunction". That amply safeguards the interests of the person against whom the injunction may be issued. Suppose there is no complaint as such, and suppose there is only a police

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report from which a Magistrate comes to know of the possibility of such a marriage as contemplated under this Act taking place. If Mr. Subramania Ayyar's amendment is accepted, the Magistrate cannot take any action. He is powerless. I admit that parties against whom injunctions might be issued should be protected against arbitrary action by the magistrate. But there is sub-clause 2 to amply protect their interests. On this ground, I oppose the amendment.

Mr. M. Sivarama Menon *(Advocate-General):* Mr. President Sir, as I go on attending to the discussion regarding these various amendments, a feeling enters my mind as to whether it is not the aim of the amendment to make it possible for rich persons to evade the law. The Hon'ble Lady Member was perfectly correct in accepting the amendments to reduce the penal clause to a fine of Rs. 1,000, because, in all such matters, even courts recognise that first offences of the kind relating to social legislation should be treated leniently. Therefore, this House also is accepting the wholesome principle that first punishments, should not be very excessive or unduly deterrent. In a case, therefore, where the cry has been that the majority of the members of the Brahmin community are really against this piece of legislation, the provision for a lighter punishment is only a move in the right direction. The fact that the House has agreed to that lighter punishment is a guarantee for believing that, if for proper reasons this House finds at a later date that the law is being abused by rich persons, then, this House has the occasion and will exercise the power, as pointed by the Hon'ble Minister, to amend the law and make the punishments more deterrent. The object of section 12 is based upon a fundamental juridical principle. It is not the province of any State to allow offences as far as posssible and then hunt after the offenders. There is the preventive aspect and is the penal aspect. If it is possible to prevent such marriages being contracted under the provisions of the law, it is up to the State to see that such provisions are incorporated in the legislation itself. Suppose there is a Vigilence Association formed among the Brahmin community or among the other communities governed by the provisions of this enactment, trying to do social service by seeing that infant marriages do not take place. It will be part of their duty to enquire and be in the know as to whether any such marriages are in contemplation. Now, such persons, in their ardent desire to improve the interests of their community, must have an occasion to place whatever information they get at the hands of the court or before the proper agency who may move the court.

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So, if the words "or otherwise" are taken away from the section, the result will be this. There must be a particular individual, let him be, *A*; *B*, or *C*, appearing before the court as a complainant as required by the Criminal Procedure Code. If those words are taken away, there may not be several persons, who may, as a matter of fact, like to appear as complainants in such matters. We know that even in cases of offences involving defamation it is not all persons who are defamed that go to court to prefer complaints and get relief. That is because, they do not want to take the trouble to go to the court spend money and subject themselves to examination and attendance in courts. But, if there are particular bodies whose work is to find out these offences, such as the local police or the Vigilance Committees, then, certainly, they must have the right to set the law in motion. The local Police who have responsibility in the matter will be on the look-out to see whether there is any attempt to violate the provisions of this Act. The question we have to consider is whether the information given is *prima facie* reliable for the court to act upon. The safeguards provided in section 12 of the Bill are so numerous that there can possibly be no abuse. I therefore, think that the Hon'ble Member for Nemmara, even though his duty to his community and constituency demands that this amendment should be pressed, will not go to the extent of demanding a division on this question, especially in the light of the opinions expressed in this Council. This is my own dispassionate view of the matter.

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, I accept the suggestion of the learned Advocate-General and I do not press this amendment.

Now, that two of my amendments out of three to this clause have been defeated. I hope at least my third amendment will be sympathetically considered by the House *(laughter)*. Let me move my amendment.

In clause 12 (v) omit the words "with imprisonment of either description for a term which may extend to three months or" and the words "or with both" and delete "Rupees 1,000" and insert instead "Rupees 1,500".

The only principle underlying the amendment is this. Now that the hon'ble mover and the House has been pleased to accept the position that fine may be sufficient punishment for any violation of the enactment.....

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Mr. T. P. Poulose *(Kanayannur):* This is a violation of the Magistrate's order and not an enactment.

Mr. T. V. Subramania Ayyar *(Nemmara):* Since that principle has been accepted, I propose that the punishment of imprisonment to offenders which has been prescribed in clause 12 may be omitted. The position taken up by the learned Advocate-General and ex-Deputy President was that, if an injunction issued by a competent Magistrate is violated, then, the delinquent must be punished with more severity. In recognition of this principle and anticipating a juristic objection of that nature from the lawyer side of the House, I propose that instead of Rs. 1,000 suggested in the amendment, the amount may be made Rs. 1,500. In fact, I recognise the principle that a person who violates the orders of a Magistrate should not go scot-free, but should be given a punishment not less than that to be given to a person who ordinarily violates the law.

Mr. T. P. Poulose *(Kanayannur):* In that case it will come to that a rich man can flout the Magistrate whereas a poor man cannot.

Mr. T. V. Subramania Ayyar *(Nemmara):* Whether they be rich or poor, every man must be punished for any offence if it is proved that he has committed it. But, it may be that a rich man in view of his riches may be able to flout law. But I don't think he will be able to escape. I, therefore, submit that the House and the hon'ble mover may be pleased to accept this amendment. In fact you have not accepted any of my amendments. *(Laughter).*

മിസ്സിസ്സ് തങ്കമ്മ എൻ. മേനോൻ: ബഹുമാനപ്പെട്ട നെമ്മാറ മെമ്പർ ഒരു ലോയറായിരിക്കുന്ന സ്ഥിതിക്ക് അദ്ദേഹം ഇപ്രകാരം ഒരു ഭേദഗതി കൊണ്ടുവന്നതിൽ ഞാൻ അത്ഭുതപ്പെടുന്നു. (ഹിയർ, ഹിയർ) ഒരു മജിസ്ട്രേട്ട് ഒരു ശിക്ഷ കല്പിച്ചാൽ ആ ശിക്ഷ violate ചെയ്യണമെങ്കിൽ പത്തോ പതിനഞ്ചോ ഉറുപ്പിക കൊടുത്താൽ മതിയെന്നുള്ള ഒരു നില ഈ ഭേദഗതി സ്വീകരിക്കുന്നതുകൊണ്ടു വരും. അതിനാൽ ഞാൻ ഇതിനെ എതിർക്കുന്നു.

***Mr. E. Ikkanda Warriar** *(Cheruthuruthi):* Sir, I do not wish to say too much about this matter. If we accept the amendment, the effect of it will be that instead of a Child Marriage Restraint Bill we will have a Child Marriage Taxation Bill. If you are prepared to spend Rs. 1,500 more on the marriage, then, pay this amount to the treasury and you can, with impunity, conduct the marriage. Let

*Speech not corrected by the hon'ble member

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the Magistrate issue an injunction or anybody prefer a complaint to the Magistrate. By the mere payment of Rs. 1,500, with impunity, the marriage can be performed. Therefore, the object of the enactment will not be the prevention of the marriage, but getting a few more amount to the treasury—a nice way of taxation. Therefore, the amendment is so patently clever, and I do not think there will be anybody in this House who will support it. I, therefore, request that the House and the mover should certainly vote against this amendment.

Deputy President: In the amendment we have already accepted, imprisonment has been done away with. So, if we do not accept this amendment, it would mean that we will again have to impose imprisonment in the case of violation of some provision of this Bill.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* I am afraid the implication will be the other way. I do not know whether the House has committed itself to this position. The position taken up when we were discussing clause 6 was that no woman shall be punished with imprisonment. Now, if this amendment is accepted, woman will be liable to imprisonment, if she disobeys the court. I think, in the original Bill it was very doubtful whether a woman would be sent to jail, even if she disobeyed the order. So it is better that that clause is left as it is.

To be consistent we have to remove that proviso also. But, I am really afraid whether the effect would be as the House actually intended.

Mr. T. P. Poulose *(Kanayannur):* I feel a doubt in respect of that matter, whether the omission of that proviso from clause 6 does necessarily involve that consequence, because this proviso, as it is, applies only to the substantial punishment of imprisonment and not to the one that may be imposed upon the culprit for default of payment of fine.

Deputy President: The question is, whether for violation of a social law a woman can be punished. Now, if you are going to accept this amendment, it will mean that for disobeying a court, a woman will not be punished.

Mr. V. K. Bhaskara Menon *(Cranganur):* That is what we want. They are not bound by any laws *(laughter)*

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* It is a grand discovery!

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Mr. T. P. Poulose *(Kanayannur):* May I know whether the proviso would really interfere with.....

Mr. M. Sivarama Menon *(Advocate-General):* Women will be under the control of their husbands and they may commit this crime under undue influence.

Mr. T. V. Subramania Ayyar *(Nemmara):* I shall explain the position. The thing is, even the Bill as drafted and presented here wants to make an exemption in the case of women. If my amendment is accepted, the proviso also must go.

Mr. T. P. Poulose *(Kanayannur):* If it is not accepted?

Mr. T. V. Subramania Ayyar *(Nemmara):* If it is not accepted, then the whole clause, as is now drafted will stand and therefore, there will be no inconsistency at all. The only question is whether the House is going to accept the amendment or not.

Mr. T. P. Poulose *(Kanayannur):* Let me know from the Advocate General whether there is any inconsistency?

Mr. M. Sivarama Menon *(Advocate-General):* The Proviso to section 12 prohibits women being sentenced to imprisonment as a substantive punishment. In default of payment of fine, section 55 of the Penal Code will apply.

Mr. T. P. Poulose *(Kanayannur):* That is what I wanted.

Amendment put and lost

Clause 12 put and carried

Clause 13

Mr. T. V. Subramamia Ayyar *(Nemmara): Add. as section 13 the following.—*

"Notwithstanding anything contained in this Act, the Government may by notification in the Gazette exempt any community, family or person from the operation of the Act".

Mrs. Thankamma N. Menon *(Ernakulam-Women):* The next amendment is to add a new clause. This is the same amendment on which the House has already given its decision this morning.

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Mr. E. Ikkanda Warriar *(Cheruthuruthi):* This amendment is against the decision taken by this Council this morning. This morning we decided not to give any exemption to any community or members of a community from the operation of this Act. This is more or less the same thing. He cannot move this because it will be out of order.

Mr. T. V. Subramania Ayyar *(Nemmara):* It is not the same amendment. I won't take much time. Let me move it.

Mr. V. J. Mathai *(Planters):* On a point of order, Sir. Mr. Moothedan moved this morning to add a proviso to clause I (ii) to the following effect: "Provided that the Government may by notification in the Cochin Government Gazette exempt from the operation of this Act any community or members of a community residing in a Taluk. Such notification will be in force only for a period of three years." Whatever may be the wording of the amendment, Sir, the basic motion is that the power of exemption shall be vested in the Government. There may be difference in a few words, in the case of these amendments. One was drafted by Mr. Moothedan and the other by Mr. Subramania Ayyar. But the basic fact is the same. The present clause is "Notwithstanding anything contained in this Act the Government may by notification in the Gazette exempt any community, family or person, from the operation of the Act". They are both the same. We have come to a decision upon this question. Therefore, that precludes the discussion on this motion.

Deputy President: The amendment is not in order.

Title and preamble put and carried

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Sir, I think the next motion regarding the Bill has to be made now. I am just suggesting to the Lady Member that the final reading of the Bill may be taken up in the next meeting

Mrs. Thankamma N. Menon *(Ernakulam-Women):* Sir, I move that my Bill as amended may be taken up and finally passed in the next Vrischigam meeting.

Motion put and carried

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APPENDIX I

THE COCHIN CHILD MARRIAGE RESTRAINT BILL

Preamble.—WHEREAS it is expedient to restrain the solemnisation of Child Marriages; It is hereby enacted as follows.—

1. (*i*) *Short title, extent and commencement.*—This Act may be called the Cochin Child Marriage Restraint Act.

(*ii*) It extends to whole of Cochin State, and applies also to all subjects of His Highness the Maharaja wherever they may be.

(*iii*) It shall come into force at once.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "child" means a person who, if a male, is under 18 years of age, and if a female, is under 14 years of age.

(*b*) "child marriage" means a marriage to which either of the contracting parties is a child;

(*c*) "contracting party" to a marriage means either of the parties whose marriage is or is about to be thereby solemnised; and

(*d*) "minor" means a person of either sex who is under 18 years of age.

3. *Punishment for male adult below 21 years of age marrying a child.*—Whoever, being a male above 18 years of age and below 21, contracts a child marriage shall be punishable with fine which may extend to Rs. 1,000.

4. *Punishment for male adult above 21 years of age marrying a child.*—Whoever being a male above 21 years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to Rs. 1,000, or with both.

5. *Punishment for solemnising a child marriage.*—Whoever, performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to Rs. 1,000, or with both, unless he proves that he had reason to believe that the marriage was not a child marriage.

6. *Punishment for parent or guardian concerned in a child marriage.*—(*i*) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to Rs. 1,000, or with both:

Provided that no woman shall be punishable with imprisonment.

(*ii*) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage the person having charge of such minor has negligently failed to prevent the marriage from being solemnised

7. *Imprisonment not to be awarded for offences under Section 3.*—Notwithstanding anything contained in Section 23 of the Cochin General Clauses Act, III of

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1079, or Section 55 of the Cochin Penal Code, a Court sentencing an offender under Section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment.

8. *Jurisdiction under this Act.*—Notwithstanding anything contained in Section 168 of the Cochin Code of Criminal Procedure (II of 1086), no Court other than that of a Magistrate of the First Class shall take cognizance of, or try, any offence under this Act.

9. *Mode of taking cognizance of offences.*—No Court shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.

10. *Preliminary enquiries into offences under this Act.*—The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under Section 180 of the Cochin Code of Criminal Procedure (II of 1086), either itself make an enquiry under Section 179 of that Code or direct a Magistrate of the First Class subordinate to it to make such enquiry.

11. (*i*) *Power to take security from complainant.*—When the Court takes cognizance of any offence under this Act upon a complaint made to it, it may for reasons to be recorded in writing at any time after examining the complainant and before issuing process for compelling the attendance of the accused, require the complainant to execute a bond, with or without sureties, for a sum not exceeding Rs. 100 as security for the payment of any compensation which the complainant may be directed to pay under section 226 of the Cochin Code of Criminal Procedure, and if such security is not furnished within such reasonable time as the Court may fix, the complaint shall be dismissed.

(*ii*) A bond taken under this section shall be deemed to be a bond taken under the Cochin Code of Criminal Procedure and Chapter XLI of that Code shall apply accordingly.

12. (*i*) *Power to issue injunction prohibiting marriage in contravention of this Act.*—Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in sections 3, 4, 5 and 6 of the Act prohibiting such marriage.

(*ii*) No injunction under sub-section (*i*) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.

(*iii*) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (*i*).

(*iv*) Where such an application is received the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(*v*) Whoever knowing that an injunction has been issued against him under sub-section (*i*) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which

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may extend to 3 months, or with fine which may extend to Rs. 1,000, or with both:

Provided that no woman shall be punishable with imprisonment.

APPENDIX II

THE COCHIN PAYMENT OF SALARIES AND ALLOWANCES ACT (AMENDMENT) BILL

(As amended by the Select Committee)

Preamble.—Whereas it is expedient to amend the Cochin Payment of Salaries and Allowances Act, XXXI of 1113, it is hereby enacted as follows.—

1. (1) *Short title and commencement.*—This Act may be called the Cochin Payment of Salaries and Allowances (Amendment) Act, of 111 .

(2) This Act shall come into force at once.

2. *Amendment of section 2, Act XXXI of 1113.*—In section 2 of the Cochin Payment of of Salaries and Allowances Act, XXXI of 1113, (hereinafter referred to as the said Act) omit the word "and" and add the following words at the end.—

"and travelling and daily allowances at such rates as may be prescribed from time to time for first class officers of Government in the Cochin Service Regulations."

3. *Amendment of section 3, Act XXXI of 1113.*—In section 3 of the said Act for the words "his allowances as member of the Council" the following words shall be substituted.—

"his travelling and daily allowances at such rates as may be prescribed from time to time for first class officers of Government in the Cochin Service Regulations."

4. *Substitution of a new section 4, Act XXXI of 1113.*—For section 4 of the said Act, the following section shall be substituted.—

"4. (1) Every non-official member of the Legislative Council who does not hold any of the offices referred to in sections 2 and 3 of this Act shall be entitled to receive a fixed monthly allowance of Rs. 50 and travelling and daily allowances at such rates as may be prescribed from time to time for third class officers of Government in the Cochin Service Regulations.

(2) All the allowances fixed under sub-section (1) of this section may be relinquished by any member in writing. Such relinquishment by a member shall be final and shall not be liable to be revoked at any time during the term of office of such member.

(3) Any member who has relinquished the allowances under sub-section (2) of this section shall be entitled to receive travelling and daily allowances at such rates as may be prescribed from time to time for first class officers of Government in the Cochin Service Regulations."

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